

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

THOMAS CREIGHTON SHRADER,

Petitioner,

v.

M. ARVIZA,

Respondent.

Case No. 1:22-cv-00528-SAB-HC

ORDER GRANTING RESPONDENT'S
MOTION FOR EXTENSION OF TIME

ORDER DIRECTING CLERK OF COURT
TO FILE INSTANT ORDER AND
PETITION IN SHRADER V. GARLAND,
NO. 1:21-CV-01229, AND
ADMINISTRATIVELY CLOSE CASE

(ECF No. 7)

Petitioner is proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241.

Petitioner previously filed a petition for writ of mandamus in Shrader v. Garland, No. 1:21-cv-01229-AWI-JLT.¹ The Court interpreted the petition as challenging a state sentence and dismissed the petition. Id., ECF Nos. 5, 8. Petitioner appealed. On April 14, 2022, the Ninth Circuit vacated the judgment because the district court had misinterpreted Petitioner's claim and remanded to provide Petitioner an opportunity to properly raise his claim in a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. Id., ECF No. 13.

On May 3, 2022, Petitioner filed a § 2241 petition. (ECF No. 1). The petition was not filed in the existing case, Shrader v. Garland, No. 1:21-cv-01229, but rather a new case was

¹ The Court may take judicial notice of its own records in other cases. United States v. Wilson, 631 F.2d 118, 119 (9th Cir. 1980).

opened. On May 4, 2022, the Court directed Respondent to file a response to the § 2241 petition. (ECF No. 4). On July 1, 2022, Respondent moved for an extension of time to file a response to the petition because necessary documents from the court and U.S. Attorney's Office in the Southern District of West Virginia have not yet been received. (ECF No. 7). Therein, Respondent indicated that because Petitioner filed his § 2241 petition as permitted by the Ninth Circuit and is proceeding in the instant matter, the Court may close Shrader v. Garland, No. 1:21-cv-01229.

Rather than close Shrader v. Garland, No. 1:21-cv-01229, the Court finds it more appropriate to have the § 2241 petition filed in Shrader v. Garland, No. 1:21-cv-01229, and to close the instant case.

Accordingly, IT IS HEREBY ORDERED that:

1. Respondent is GRANTED to and including August 30, 2022, to file a response to the petition; and
2. The Clerk of Court is DIRECTED to:
 - a. FILE the instant order and the 28 U.S.C. § 2241 petition for writ of habeas corpus (ECF No. 1) in Shrader v. Garland, No. 1:21-cv-01229; and
 - b. ADMINISTRATIVELY CLOSE the instant Case No. 1:22-cv-00528.

IT IS SO ORDERED.

Dated: July 6, 2022


UNITED STATES MAGISTRATE JUDGE